IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Prithvi Raj Vs. State of Rajasthan & Ors
(S.B.Civil Writ Petition No. 89/2007)

Date of Order:- 20.12.2007.

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. Pankaj Sharma, for the petitioner.
Mr. H.K. Jain for the respondent no.9.
Mr. B.L. Tiwari, Dy. G.A.

BY THE COURT:-

This writ petition has been preferred by the petitioner aggrieved by order dated 18.09.06 passed by Divisional Commissioner, Bikaner Division, Bikaner, whereby an appeal preferred by the petitioner against an order dated 19.02.04 passed by the District Rehabilitation Officer, Hanumangarh, has been dismissed on the ground that in view of repeal of the Displaced Persons (Compensation And Rehabilitation) Act, 1954 (in short "the Act of 1954") by the Displaced Person Claims and Other Laws Repeal Act, 2005 (38 of 2005), in absence of the saving clause therein, the proceedings cannot be continued. Accordingly, a contempt petition no. 1/2004 pending before the Appellate Authority was also ordered to be dropped vide yet another order dated 18.09.06.

The counsel for the petitioner submits that the question involved in the matter is no more res integra. The controversy involved stands settled by the decision of the Division Bench of this court in the matter of Laxman Singh through his LRs V/s State & Ors. (D.B. Special Appeal (W) No. 762/1995 decided vide judgment dated 14.09.2006).

In the Laxman Singh's case (supra) similar controversy having been arisen, after due consideration the Division Bench of this court held as under:

"It transpired in course of hearing that the Act i.e. Displaced Persons (Compensation & Rehabilitation) Act was repealed by the Displaced Persons Claims and Other Laws Repeal Act, 2005 (38 of 2005). A question arose as to whether in view of the repeal of the enactent itself, the claim of the appellant can be considered now. Section 6 of the General Clauses Act, 1897 provides the complete answer. Section 6 lays down that where any Central Act etc. is repealed, unless a different intention appears, repeal shall not among other things "affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed" and " any such investigation, legal proceeding or remedy may be instituted, continued or enforced, as if the repealing Act had not been passed". Thus, in view of the provisions of Section 6 of the General Clause Act, notwithstanding the repeal of the Displaced Persons (Compensation & Rehabilitation) Act, the claim of the appellant

being a pending claim has to be considered and taken to its logical conclusion in accordance with law. "

Thus, the writ petition deserves to be allowed in terms of the position of law settled as aforesaid by this Court, which is not disputed even by the learned counsel appearing on behalf of the respondents.

Accordingly, the writ petition is allowed. The impugned orders dated 18.09.06 (Annexure 2 and 3) are set aside. The respondent No. 1 is directed to decide the appeal preferred by the petitioner in the light of the provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, after giving an opportunity of hearing to the petitioner, within a period of four months from the date of this order.

No order as to costs.

(SANGEET LODHA),J.